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APPLICATION NO.	FILING DATE	NAME OF APPLICANT	ATTORNEY DOCKET NO.
07/797,401	11/26/91	MC CARTHY	P

TRAN, K
EXAMINER

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A2301	PAPER NUMBER

03/31/92

DATE MAILED:

COMMISSIONER OF PATENTS AND TRADEMARKS

☑ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☑ Notice of References Cited by Examiner, PTO-892.
2. ☑ Notice re Patent Drawing, PTO-948.
3. ☑ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of informal Patent Application, Form PTO-152.
5. ☑ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☑ Claims 1-40 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☑ Claims 1-40 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
    ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

[redacted] [redacted]

#3

1. The disclosure is objected to because of the following informalities:

Page "36" should be renumbered as --35--.

Appropriate correction is required.

2. Claims 1,24,34 and 37 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, lines 9-10 and 15, the terms "credit value" and "cash value" are vague and indefinite. What is the difference between the credit value and the cash value?.

As per claim 24, line 6, the term "credit rate can be applied" fails to add any positive limitation of the claim. In order to overcome this rejection, the Applicant must rewrite the claim such as the claimed feature of the credit rate is positively recited.

As per claims 34 and 37, the terms "whereby" are not given patentable weight.

3. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present

application.

4. Claims 2,3,4,8,9,10,12 and 13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present application. With regard to claim 10, in a system for accumulating cash value for consumers based upon credit rates or coupons (issued by either the merchant or a third party). It would have been obvious to one having skill in the art to reduce the merchant's bill value based on credited coupons from the third party, since the merchant could not be expected to be charged for coupons issued by a third party.

5. Claim 5 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present application.

6. Claim 6 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of U.S. Patent No. 4,941,090. Although the conflicting

claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present application.

7. Claim 7 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only differences in the present application.

8. Claim 11 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present application.

9. Claim 14 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present

application.

10. Claims 15,16,17,21,22 and 23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present application. With regard to claim 17, in a system for accumulating cash value for consumers based upon credit rated or coupons (issued by either the merchant or a third party). It would have been obvious to one having skill in the art to reduce the merchant's bill value based upon credited coupons from the third party, since the merchant could not be expected to be charged for coupons issued by a third party.

11. Claim 18 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present application.

12. Claim 19 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over

claim 11 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present application.

13. Claim 20 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 4,941,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim essentially the same cash value accumulation system with only obvious differences in the present application.

14. Claims 24-32 are similar in scope to claims 1-13 and are rejected under a similar rotionale.

15. Claims 33-40 are similar in scope to claims 14-32 are rejected under a similar rotionale.

16. The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Any inquiry concerning this communication or earlier

communications from the examiner should be directed to Khai Tran whose telephone number is (703) 308-3544.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0754.

Khai Tran

March 03, 1992

DALE M. SHAW
SUPERVISORY PATENT EXAMINER
GROUP 230